

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

---

<b>JUSTIN O'BRIEN</b> , <i>on behalf of himself and all others similarly situated</i>	:
Plaintiff,	:
v.	:
<b>SMOOTHSTACK, INC.</b> ,	:
Defendant.	:
	:

---

**DEFENDANT'S MOTION TO DISMISS**

COMES NOW Defendant, Smoothstack, Inc. ("Defendant"), by and through undersigned counsel, and pursuant to Rule 12(b)(1), 12(b)(6) of the Federal Rules of Civil Procedure and Rule 7 of this Court's Local Rules, and respectfully moves this Court for an order dismissing Counts III-VI of the Complaint filed by Plaintiff Justin O'Brien, *on behalf of himself and all other similarly situated*, with prejudice. The grounds supporting Defendant's Motion to Dismiss are set forth in the Memorandum in Support, which is filed contemporaneously herewith.

Respectfully Submitted,

By Counsel

/s/ Dirk McClanahan  
Zach Miller, Esq. (VSB No. 85860)  
Dirk McClanahan, Esq. (VSB No. 81208)  
McClanahan Powers, PLLC  
3160 Fairview Park Drive, Suite 410  
Falls Church, VA 22042  
Tel: (703) 520-1326  
Fax: (703) 828-0205  
Email: [zmiller@mcplegal.com](mailto:zmiller@mcplegal.com)  
[dmclanahan@mcplegal.com](mailto:dmclanahan@mcplegal.com)  
*Counsel for Smoothstack, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that on May 12, 2023, the foregoing document was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

By: /s/ Dirk McClanahan